

Fleming, et al. v. COP, et al.

No. CV04-2338 RSM

**DECLARATION OF MARCUS B. NASH
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

EXHIBIT H

FLEMING v. THE CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
December 13, 2005 RICHARD PETTIT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

| | | |
|-----------------------------------|---|-----------------------|
| KENNETH FLEMING and JOHN DOE, |) | |
| |) | Case No. C04-2338 RSM |
| Plaintiffs, |) | |
| |) | |
| vs. |) | Videotaped Deposition |
| |) | of: |
| THE CORPORATION OF THE PRESIDENT) |) | RICHARD PETTIT |
| OF THE CHURCH OF JESUS CHRIST OF) |) | |
| LATTER-DAY SAINTS, a Utah |) | |
| corporation sole, a/d/a "MORMON |) | |
| CHURCH"; LDS SOCIAL SERVICES, |) | |
| a/d/a LDS FAMILY SERVICES, a |) | |
| Utah corporation, |) | |
| |) | |
| Defendants. |) | |

December 13, 2005
9:24 a.m.

Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84145-0120

EXHIBIT H

Sharon Morgan, CSR, RPR, CRR
Notary Public in and for the State of Utah

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1 Q. What did the boy tell you about Jack LaHolt?
 2 A. He had been touched inappropriately.
 3 Q. Did he say where it had taken place?
 4 A. No. Oh, where -- where in the area?
 5 Q. What location had it occurred at?
 6 A. On a scout outing.
 7 Q. And what was your understanding of where that
 8 scout outing was?
 9 A. Somewhere in the Snoqualmie Pass area of
 10 Washington.
 11 Q. And did the boy tell you specifically what
 12 Jack LaHolt had done?
 13 A. No.
 14 Q. What did he say, to the best of your
 15 recollection?
 16 A. My recollection is he was touched
 17 inappropriately.
 18 Q. Do you remember where he was touched
 19 inappropriately?
 20 A. No.
 21 Q. Did you ask him any further details about how
 22 Jack LaHolt had touched him?
 23 A. No.
 24 Q. At the time that you received this
 25 information, were you serving as either a first or

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1 A. He was shocked.
 2 MR. FREY: At this point -- did you expect
 3 your conversation -- let me interpose an objection and
 4 ask a question. Do you expect your conversation with
 5 Bishop Borland to be confidential?
 6 THE WITNESS: Yes.
 7 MR. FREY: Are you willing to waive that
 8 confidentiality and testify about it today, about what
 9 you spoke to about with Bishop Borland?
 10 THE WITNESS: Yes.
 11 MR. FREY: Okay. Go ahead, Counsel.
 12 Q. (By Mr. Kosnoff) When you went to Bishop
 13 Borland, you were not going to him for purposes of
 14 confessing your sin, were you?
 15 A. No.
 16 Q. And you would hope that he would -- that --
 17 strike that. What was your reason for going to Bishop
 18 Borland?
 19 A. To inform him of the situation.
 20 Q. And was it your hope or intention that Bishop
 21 Borland would use this information and take some kind
 22 of concrete action with respect to Jack LaHolt?
 23 A. Yes.
 24 Q. And what was your -- what did you hope that
 25 he would do?

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1 second counselor?
 2 A. Second. I'm sorry, now, I was not -- in 1971
 3 I was not a counselor.
 4 Q. Okay. What were the circumstances under
 5 which you received this information from this boy?
 6 A. It was voluntary.
 7 Q. Where did he tell you this?
 8 A. In my home.
 9 Q. Was the boy a friend of your son?
 10 A. No.
 11 Q. Was it one of your sons?
 12 A. Yes.
 13 Q. Was it Scott?
 14 A. Yes.
 15 Q. When your son Scott told you this
 16 information, did you believe it?
 17 A. Yes.
 18 Q. Did you do anything with this information?
 19 A. Yes.
 20 Q. What was that?
 21 A. I went to Bishop Borland.
 22 Q. And did you tell Bishop Borland what your son
 23 Scott had told you?
 24 A. Yes.
 25 Q. And what did Bishop Borland say?

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1 A. Correct it.
 2 Q. What did Bishop Borland say to you?
 3 A. I don't remember.
 4 Q. Did he tell you that he would do something
 5 about Jack?
 6 A. I don't remember.
 7 Q. Did he give you any kind of assurances that
 8 the matter would be handled?
 9 A. Yes.
 10 Q. And did you trust that the matter would be
 11 handled?
 12 A. Yes.
 13 Q. Was it handled?
 14 A. Yes.
 15 Q. To your knowledge, what happened with respect
 16 to Jack LaHolt?
 17 A. Within one week he was released.
 18 Q. How did you become aware that he had been
 19 released?
 20 A. At the church service the following week.
 21 Q. Did somebody communicate that to you?
 22 A. Yes.
 23 Q. Bishop Borland?
 24 A. Yes.
 25 Q. And he told you that he released Jack?

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CERTIFICATE
STATE OF UTAH)
:SS
COUNTY OF SALT LAKE)

THIS IS TO CERTIFY that the deposition of RICHARD PETTIT, the witness in the foregoing deposition named, was taken before me, Sharon Morgan, Certified Shorthand Reporter and Notary Public in and for the State of Utah, residing in Salt Lake City.

That the said witness was by me, before examination duly sworn to testify the truth, the whole truth, and nothing but the truth in said cause.

That the testimony of said witness was by me reported in Stenotype, and thereafter caused to be transcribed into typewriting, and that a full, true, and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages, numbered from 3 to 78, inclusive, and said witness deposed and said as in the foregoing annexed deposition.

I further certify that the reading copy of the same was delivered to Mr. Fey for reading and signature, signing before a Notary Public, and to be returned within 30 days of the date hereon.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 15th day of December, 2005.

Sharon Morgan, CSR, RPR, CRR

My Commission Expires:
6-16-2007

SHARON MORGAN, CSR, RPR, CRR
GARCIA & LOVE

Case: Fleming vs. Corporation of the President
Case No.: C04-2338 RSM
Reporter: Sharon Morgan
Date Taken: 12/13/05

WITNESS CERTIFICATE

STATE OF UTAH :
 : ss.
COUNTY OF _____:

I HEREBY CERTIFY that I have read the foregoing testimony consisting of 76 pages, numbered from 3 to 78 inclusive, and the same is a true and correct transcription of said testimony, with the exception of the following corrections listed below, giving my reasons therefor.

| Page | Line | Change/Correction | Reason |
|------|------|-------------------|--------|
|------|------|-------------------|--------|

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RICHARD PETTIT

Subscribed and sworn to at _____
Utah, this _____ day of _____, 2005.

My commission expires: _____

NOTARY PUBLIC

SHARON MORGAN, CSR, RPR, CRR
GARCIA & LOVE